

GENERAL

The selectmen of the Town of Eastham, acting under and by the virtue of the authority upon them conferred by General Laws, Chapter 130 as amended by Chapter 598, Acts of 1941, and by Chapter 98 of the Acts of 1945, and all laws and parts of laws whether statutory or common, in amendment thereof or addition thereto, or in anywise the selectmen hereto enabling, and by vote of the Town of Eastham, aforesaid passed at Annual Town Meeting held February 4, 1946, hereby make and publish the following regulations concerning the taking of eels, sea worms, clams, quahogs, scallops and any and all kinds of shellfish within the Town.

1. Under the provisions of the above-mentioned laws, all persons are prohibited from taking without a permit any eels (except by hook and line), sea worms, or shellfish, including clams, quahogs, sea clams, razor clams, mussels, oysters and scallops, but not including whelks or moonsnails; said permit shall be issued in accordance with the terms, conditions and restrictions as are herein set forth.

2. Permits shall be of two (2) kinds: commercial permits, whereby the holders thereof may sell the shellfish taken under such permits; and permits for family use, whereby the holders of such permits may not sell the shellfish taken under such permits.

3. For purposes of these regulations, the following definitions shall apply: "Batch" shall be defined as one bushel for commercial permit holders, and one ten-quart pail for family permit holders. "Bushel" shall be defined as a level bushel basket whose interior volume measures 2,150.42 cubic inches. "Ten-quart pail" shall be defined as a level wire basket whose interior volume measures 672.0 cubic inches. "Week" shall be defined as seven consecutive days beginning on Sunday,12:01 a.m., and ending Saturday, midnight 11:59 p.m. "Quahog" shall be defined as Mercenaria. "Clam" shall be defined as Mya arenaria. "Mussel" shall be defined as Mytilus edulis. "Sedge areas shall be defined as areas where plants of the species Spartina are growing.

4. Domiciled persons of Orleans shall enjoy the same right to the shellfisheries of Eastham as they enjoyed since the incorporation of the Town, after first obtaining a permit from the Town of Eastham.

5. The selectmen may restrict the use of such areas for the taking of any shellfish, as they may deem expedient, either absolutely or generally, or for some particular use, or the taking of certain kinds of shellfish only, and allowing other kinds to be taken on such restricted areas as posted. Such restrictions shall have the same force and effect as any rule or regulation made therein, and any violation of which shall be punishable in the like manner.

6. All persons taking, or carrying away, or having in their possession shellfish of any kind in boat or any other container, shall exhibit on demand from shellfish constable or police officer their permit to take such shellfish and shellfish taken for inspection.

7. No shovel, spade, trowel or other edged tool may be used in the harvest of shellfish.

8. No person shall take or have in his possession quahogs less than one inch shell thickness (hinge width), clams or mussels less than two inches or oysters less than three inches in their longest diameter or whelks less than 2 <sup>3/4</sup> inches in shell width to the amount of more than five percent of any batch. Any so taken shall be immediately returned to the water or flats from which they were taken.

9. No person shall take, dig, or carry away any shellfish between one-half hour after sunset and one-half hour before sunrise, by any method whatever, from any water, flats or creeks of the Town (except Cape Cod Bay below low water mark).

10. No person may plant, place, or transplant shellfish in or onto any waters or shellfish areas within the Town of Eastham without first obtaining a special permit from the selectmen.

11. No shellfish may be harvested if the air temperature falls below 28 degrees F. as measured on the north side of the shucking house at Collins Landing except mussels and eels.

12. No starfish, moonsnails or crabs may be returned to the waters of the town but shall be

placed in receptacles at the town landings.

13. Shellfish permits are not transferable, and must be carried while shellfishing.

14. The selectmen may suspend for such time as they deem proper, or revoke for cause, any permit granted by them. Due notice in writing shall be given to the permit holder of such suspension or revocation. Any person whose license has been suspended shall return same to the office of the selectmen, there to remain until the period for which it was suspended has expired.

15. Any person who violates any provision of any of these rules, regulations or laws may be punished by a fine of not less than five and not more than one thousand dollars, except where violation takes place in an area further restricted by statute, where the penalty shall be set by that statute. A table of penalties for violations is available at the town clerk's office.

16. The effective date of these regulations shall be 2 July 2007 and shall remain in effect and full force until modified, changed or revoked by the then selectmen or by action of the Town.

17. The area of Salt Pond and Salt Pond River shall be restricted to family limits and subject to annual schedule. An area of 1,000 feet north and 1,000 feet south of Hemenway Landing shall be restricted to family limits for mussels only.

18. No shellfish may be dug in 'sedge areas' unless otherwise posted in that area. Sedge areas located on the West shore in Cape Cod Bay between the northern shore of Bee's River (so-called) and the town line at Wellfleet shall include a fifteen-foot buffer around the perimeter of the visible plant stalks which shall be designated "root zone" and shall be closed to the digging of shellfish.

NON-COMMERCIAL OR FAMILY REGULATIONS

1. All the GENERAL REGULATIONS apply to the holders of Non-commercial permits whether resident or non-resident.

2. Non-commercial permits will be issued June 1st of every year and shall be valid until June 1st of the following year, unless sooner suspended or revoked or otherwise designated

3. Fees for shellfish permits shall be established by the Board of Selectmen annually and published on or before 1 June.

4. For purposes of these regulations the following definitions shall apply: Non-commercial (Family) Permit - Real estate taxpayer or legally domiciled person of the Town of Eastham or Orleans, and shall include members of their immediate family only. "Immediate", in this context, means a family member living and/or supported by the resident or taxpayer. Only one (1) permit per family may be issued.

5. The taking of shellfish under any non-commercial permit shall not exceed one 10-quart pailful (including shells) in any one week of clams, quahogs or mussels, and 36 eels by spear and 36 sea worms for one family unless otherwise posted in that area.

6. No soft shell clams may be dug in sedge areas unless otherwise posted in that area.

7. No shellfish taken under any non-commercial permit may be sold.

COMMERCIAL REGULATIONS

1. Annual Commercial permits covering the period from January 1, through one year from date of issue, may be granted to any person who has been domiciled for a period of six continuous months or more preceding the date of application in Eastham or Orleans. Said permits shall be forfeited if the holder fails to continue and maintain their domicile within either municipality.

2. Permits will be issued from January 1 to April 30 by the shellfish constable or his designee

and subject to a 30 day review of the application for said permit.

3. A Commercial shellfish permit is valid for one year from the date of issue only for the person to whom it is issued.

4. Fees for shellfish permits shall be established by the Board of Selectmen annually and published on or before 1 June-

5. A special fee may be charged for a Commercial permit holder to take shellfish from planted areas.

6. A special permit may be issued by the shellfish constable or his designee subject to stock assessment for the taking of any kind and all shellfish from the waters of Nauset Marsh and Town Cove with a power dredge, drag, or jet or any means similar from the town waters except for scallops where a power dredge may be used.

7. No person holding a Commercial shellfish permit need or may have a Non-commercial permit for the taking of shellfish by hand in restricted areas, but the same regulations shall apply to all permits.

8. No person having a valid Commercial permit from Orleans or Eastham may have in his possession shellfish taken from the Nauset estuary in excess of the following: ~~two (2) bushels soft shell clams~~; four (4) bushels quahogs with not more than two (2) bushels necks and/or cherrys. (Limits for mussels will be periodically reviewed and set by the selectmen.) Such limits shall be subject to resource assessments. No such permit holder shall have in their possession while in, or on, or adjacent to the waters or flats of the town or at any landing within the town, shellfish in excess of the limits specified in this paragraph. No limit shall apply for the harvest of soft shell clams until further notice.

9. A Commercial shellfish permit may be granted to a person domiciled in Eastham as defined in (1) above who is at least 14 years of age on the date of the application for permit or who has held a Commercial or Apprentice permit for the year 1996. A copy of birth certificate shall be required for those applicants not holding a valid motor vehicle operator's permit. Persons who have not yet achieved the age of 14 years on the date of application, who are domiciled as defined, may be issued a free "Apprentice Permit". Said permit will allow the person to assist a duly licensed Commercial harvester in the taking of shellfish provided that the limit for the harvest shall not exceed that of one (1) permit holder. Said "Apprentice Permit" holders who achieves the age of 14 years during the period between 1 May and 31 December of the same year may then be issued a Commercial permit for the remainder of the calendar year subject to full digging privileges and harvest limits.

10. All persons operating under a shellfish permit issued by the Town of Eastham taking shellfish by power dredging in the Eastham waters of Cape Cod Bay shall land such shellfish at Rock Harbor daily.

11. The quahog limit for commercial power dredging in Cape Cod Bay shall be 35 bushels per day, per boat. A special permit may be issued by the shellfish constable or his designee subject to assessment of stock and habitat for the taking of quahogs by hydraulic means from the waters of Cape Cod Bay. Said permit shall define equipment specifications, time periods and areas where said equipment may be used and shall be renewed annually.

12. All persons actively engaged in power dredging in Cape Cod Bay shall hold an Eastham commercial shellfish permit. For the purposes of this regulation "actively engaged" shall be defined as handling or harvesting shellfish, operating harvesting gear, or financially supporting the vessel or its harvest.

13. The owner of a vessel engaged in power dredging in the Eastham waters of Cape Cod Bay shall hold an Eastham Commercial shellfish permit.

MUSSEL REGULATIONS

- 1. All mussels shall be culled and all seed mussels under two inches shall be returned daily to the water in the area from which they are taken.
- 2. The daily commercial catch limit for mussels shall be ten (10) bushels.
- 3. Mussels may be harvested from the waters of Nauset Marsh and Town Cove by power dredging from October 1st to March 31st by special permit only.

EEL REGULATIONS

- 1. Eels may be taken only by pot, trap, hook and line, or spear. No other methods shall be employed except by special permit from the Town of Eastham.
- 2. Any person who takes more than 36 eels per week by spear or sets five or more pots or traps for eels in the Town of Eastham must hold a valid Eastham Commercial shellfish permit.
- 3. All pots or traps for eels shall be registered annually with the Eastham Natural Resources Department. The name and Eastham permit number of the permit holder shall be plainly marked on all pots, traps, cans, and buoys. Buoys shall be painted with a color scheme approved by the Natural Resources Officer for identification.
- 4. No freshwater lakes, rivers, ponds, creeks, bogs or any saltwater estuary may be obstructed in any way so as to interfere with the habits and migration of eels.

SCALLOP REGULATIONS

- 1a. The waters and flats of Cape Cod Bay in the Town of Eastham shall be open for the taking of scallops annually from in October 1st through March 31st of the following year. The taking of scallops is prohibited in Cape Cod Bay between April 1st and September 30th.
- b. The waters and flats of the Nauset estuary shall be open for the taking of scallops annually from the third Sunday in October through March 31st of the following year. The taking of scallops is prohibited in the Nauset estuary between April 1st and the third Sunday in October.
- 2. Hours for scalloping shall be from one-half hour before sunrise to 4:00 PM, seven days per week.
- 3. The minimum air temperature for the taking of shellfish shall be twenty-eight (28) degrees F. When the air temperature is less than thirty (30) degrees F. not more than one drag shall be emptied on a vessel at any one time for purposes of culling. All seed shall be returned immediately to the water.
- 4.a. Non- Commercial permit holders shall be allowed one (1) bushel of scallops per week in addition to other shellfish harvested.
- b. The daily limit for Commercial permit holders in Cape Cod Bay shall be ten (10) level totes per day per permit holder, and there shall be a maximum of two (2) permit holders per boat.
- c. The daily limit for Commercial permit holders in Nauset estuary shall be five (5) level totes per day per permit holder and there shall be a maximum of two (2) permit holders per boat.
- 5. All scallops taken from the waters of Cape Cod Bay shall be landed at Rock Harbor except by written permission of the shellfish constable.
- 6. The presence of a scallop drag overboard at any time shall be evidence of the intent to take scallops.
- 7. All scallops taken in town waters, shall be scallops with a well-defined, raised annual growth ring, and any scallop without such a ring shall be deemed a seed scallop and shall be returned to the water immediately.
- 8. All scallops shall be taken ashore in the shell.

- 9. Scallop dredge frames used in Nauset Marsh and Town Cove shall not measure more than thirty-six (36) inches in width and shall be of light construction type. The maximum width of drag in Cape Cod Bay shall be five (5) feet.
- 10. No scallops may be taken by scuba, snorkel, or other means of diving in those areas which are open to dragging in Nauset Marsh and Town Cove.
- 11. Any boat used for commercial scalloping in the Town of Eastham must be registered in the Town of Eastham or Orleans.
- 12. Any boat used for commercial scalloping in the Town of Eastham shall make only one (1) trip per day.
- 13. Violations of any of these scallop regulations shall result in the following:
  - A. First offense: two (2) days' suspension of license.
  - B. Second offense: one (1) week's suspension of license.
- 14. All scallops taken by Commercial permit must be landed in plastic totes measuring eighteen (18) inches long by twelve (12) inches wide by ten and five-tenths (10.5) inches deep, inside measurements, and containing two thousand two hundred sixty-eight (2,268) cubic inches.
- 15. No shellfish permit holder shall land scallops and return to the waters for the purpose of additional scalloping without the permission of the Shellfish Constable or Deputy.

ADDENDUM  
FEES FOR 2008

Subject to eligibility requirements established above, the following fees will apply

- 1. A fee of \$20.00 shall be charged for a Non-commercial shellfish permit for any person who is domiciled in the towns of Eastham or Orleans, or for any person owning real estate in Eastham.
- 2. A fee of \$65.00 shall be charged for a Non-commercial shellfish permit for any person who is not domiciled in the towns of Eastham or Orleans but who provides bona fide evidence of their rental or lodgings in the town of Eastham.
- 3. A fee of \$75.00 shall be charged for a Non-commercial shellfish permit for any person who is not domiciled in the towns of Eastham or Orleans nor renting lodging in the town of Eastham.
- 4. A fee of \$10.00 shall be charged any domiciled person of the town of Orleans or any taxpayer in Eastham 65 years of age or over.
- 5. A fee of \$ 15.00 shall be charged for a Non-Commercial shellfish permit for any person who is not domiciled in the Towns of Eastham or Orleans which will be valid for a period of one week from the date of issue.
- 6. A fee of \$ 200.00 will be charged for a Commercial permit.
- 7. A fee of \$10.00 will be charged for a Commercial permit for persons over 70 years of age.



Town of Eastham  
Shellfish Regulations  
2008